

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:13-CV-00123-FDW-DCK**

DANIEL JOHNSON,

Plaintiff,

vs.

MCLANE FOOD SERVICE, INC.,

Defendant.

ORDER

THIS MATTER is before the Court upon Defendant McLane Foodservice, Inc.'s Motion to Dismiss Plaintiff's Amended Complaint. (Doc. No. 23). In its Motion, Defendant moves that the Court dismiss Plaintiff Daniel Johnson's Amended Complaint, (Doc. No. 22) under Rule 12(b)(6) of the Federal Rules of Civil Procedure. Upon review by the Court, Defendant's Motion is DENIED WITHOUT PREJUDICE. Defendant is free to raise the issues set forth in the Motion again at summary judgment.

IT IS SO ORDERED.

Signed: September 9, 2013



Frank D. Whitney
Chief United States District Judge

